

Memorandum 2010-24

Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Discussion of Issues)

This memorandum continues the Commission's trial court restructuring work on rights and responsibilities of the county as compared to the superior court. The Legislature has directed the Commission to recommend statutory revisions to reflect trial court restructuring reforms, including: (1) the enactment of the Trial Court Employment Protection and Governance Act (hereafter, the "TCEPGA"), (2) the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (hereafter, the "Trial Court Funding Act"), and (3) the implementation of trial court unification. See Gov't Code § 71674; see also 2009 Cal. Stat. res. ch. 98; Gov't Code § 70219. In implementing this directive, the practice of the Commission has been to update the statutes without making substantive changes other than those needed to reflect trial court restructuring reforms. The revisions proposed in this memorandum are intended to continue that practice.

In the present study, the staff is systematically searching the codes for provisions that need revision to reflect the shift from county to state funding of trial court operations. The staff is searching the codes alphabetically for key terms, including "county," and "board of supervisors," to find provisions needing revision that we have not already identified. The search has revealed several provisions that need revision not only to reflect trial court funding reforms, but also to reflect (1) the shift of control and management of trial court employees from the county to the court under the TCEPGA, and (2) the unification of municipal and superior courts into a unified superior court.

Previous memoranda in this study discussed provisions revealed by our search, up through part of the Family Code. This memorandum addresses the rest of the provisions we found in the Family Code and several, but not all, provisions we found in the Government Code. The rest of the Government Code provisions will be discussed in a future memorandum.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

This memorandum discusses most provisions categorically. A provision is discussed separately only as needed. Possible revisions to each Government Code section are presented in an attachment to this memorandum, in numerical order.

Revisions presented in the attachment are based on the staff's analysis of statutes that shift responsibility for trial court operations and employees (i.e., the Trial Court Funding Act and the TCEPGA). However, in some instances, the staff is unsure whether the suggested revisions reflect actual practice. **Accordingly, the staff specially seeks input on that issue.**

The Commission should consider the revisions below and in the attachment, and determine whether to approve them, with or without change, for purposes of preparing a tentative recommendation.

REVISION OF FAMILY CODE PROVISIONS TO REFLECT
THE TRIAL COURT FUNDING ACT

Three provisions in the Family Code — Sections 7553, 7556, and 9005 — appear to need revision to reflect the shift in funding of trial court operations from the county to the state.

Under the Trial Court Funding Act, the state pays for “court operations,” as defined in Government Code Section 77003 and Rule 10.810 of the Rules of Court. That rule provides, among other things, that “court operations” paid by the state include experts appointed by the court for the court’s needs, as well as compensation of a court reporter.

Family Code Sections 7553 and 7556 appear to need revision to reflect that experts appointed by the court for the court’s needs are a court operation, paid by the state. **The staff therefore recommends revising those sections along the following lines:**

7553. (a) The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. ~~The~~ Except as provided in subdivision (b), the court may order that it be paid by the parties in the proportions and at the times the court prescribes, or that the proportion of any party be paid by the county, and that, after payment by the parties or the county or both, all or part or none of it be taxed as costs in the action or proceeding.

(b) If the expert witness is appointed for the court’s needs, the compensation shall be paid by the court.

Comment. Section 7553 is amended to reflect the enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 7700-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); Cal. R. Ct. 10.810 (listing "court operations"); see also Cal. R. Ct. 10.810(d), Function 10 (referring to "court-appointed expert witness fees (for the court's needs)").

The amendment reflects that an expert whose compensation is governed by Section 7553 may be appointed by the court for the court's needs. See Sections 7551 (providing that "court may upon its own initiative" order genetic test), 7552 (providing for genetic tests and appointment of other experts), 7556(a) (providing that order for tests may be made "on the court's initiative").

7556. This part applies to criminal actions subject to the following limitations and provisions:

(a) An order for the tests shall be made only upon application of a party or on the court's initiative.

(b) The compensation of the experts, other than an expert witness appointed by the court for the court's needs, shall be paid by the county under order of court. The compensation of an expert witness appointed for the court's needs shall be paid by the court.

(c) The court may direct a verdict of acquittal upon the conclusions of all the experts under Section 7554; otherwise, the case shall be submitted for determination upon all the evidence.

Comment. Section 7556 is amended to reflect the enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 7700-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); Cal. R. Ct. 10.810 (listing "court operations"); see also Cal. R. Ct. 10.810(d), Function 10 (referring to "court-appointed expert witness fees (for the court's needs)").

Similarly, Family Code Section 9005 appears to need revision to reflect that compensation of a court reporter is a court operation, paid by the state. See Cal. R. Ct. 10.810(d), Function 3 (referring to "[s]alaries, wages, and benefits of court reporters who are court employees," and [c]ontractual court reporters and monitors"). However, court reporter compensation is a touchy area politically. The staff recommends **waiting to address Section 9005 with other provisions relating to court reporter compensation.**

GOVERNMENT CODE PROVISIONS

Background

The Government Code provisions discussed in this memorandum refer to a judicial district. The references to a judicial district in each provision discussed below either predate trial court restructuring or, in two instances (Sections 1091 and 12763), perpetuate a reference to a judicial district that predated trial court restructuring.

A reference to a judicial district that predates trial court unification typically refers to a municipal court district. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (hereafter, "Revision of Codes"). Such references need to be re-evaluated in the post-unification context, in which municipal courts no longer exist.

In the discussion below, the provisions that refer to a judicial district are grouped into one of the following categories: (1) provisions that refer to a judicial district alone, or (2) provisions that refer to a judicial district alongside a reference to a county. The discussion begins with the provisions that refer to a judicial district alone, then turns to provisions that refer to both a judicial district and a county.

All citations below are to the Government Code, unless stated otherwise.

Reference to a Judicial District Alone

A number of provisions refer to one or more judicial districts without also referring to a county. For example, Section 23249 lists items for a County Boundary Review Commission to determine. Subdivision (g) twice refers to judicial districts:

23249. The commission shall determine:

(a) An equitable distribution, as between the transferring county and the accepting county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed boundary change in each affected county.

(c) The economic viability of each affected county if the proposed boundary change is effected.

(d) The final boundary lines between the two affected counties as they will exist if the proposed boundary change is effected.

(e) A procedure for the orderly and timely transition of services, functions and responsibilities from the transferring county to the accepting county.

(f) The division of both affected counties into five supervisorial districts. The boundaries of the districts shall be established in a manner that results in a population in each district which is as equal as possible to the population in each other district within the county.

(g) The division of both affected counties into a convenient and necessary number of *judicial*, road and school *districts*, the territory of which shall be defined. To the extent possible, existing *judicial*, road and school *districts* located within the territory which is to be transferred shall be maintained.

(Emphasis added.)

Before unification, the references to judicial districts appear to have been intended to refer to municipal court districts. Post-unification, a reference to a municipal court district is generally to be treated as a reference to the county. See Code Civ. Proc. § 38. However, the references to judicial districts in Section 23249(g) would not make sense if those references were treated as references to a county.

Accordingly, the staff recommends revising Section 23249 to delete the references to judicial districts, as follows:

23249. The commission shall determine:

...
(g) The division of both affected counties into a convenient and necessary number of ~~judicial~~, road and school districts, the territory of which shall be defined. To the extent possible, existing ~~judicial~~, road and school districts located within the territory which is to be transferred shall be maintained.

Comment. Subdivision (g) of Section 23249 is amended to reflect the unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

Sections 23332 and 23535 also pertain to matters to be determined by the County Boundary Review Commission, and contain similar references to a judicial district. **The staff therefore recommends similar revisions to Sections 23332 and 23535, as shown in the attachment.**

Reference to a Judicial District Alongside a Reference to a County

Many provisions refer to both a judicial district and a county. For example, the reference may be to “a county or judicial district” or “an officer of a county or a judicial district,” or a similar variation.

As discussed above, a reference to a judicial district was generally intended to refer to a municipal court district. Such a reference is now generally to be treated as a reference to the county. See Code Civ. Proc. § 38. As a result, a reference to a judicial district alongside a reference to the county appears to be effectively two references to the county. Accordingly, the reference to the judicial district should be deleted.

For some provisions, however, further revisions may be appropriate. Before trial court restructuring, a provision referring to a county or judicial district generally applied to the county and its courts, as the county funded and managed trial courts and its employees. Because the county no longer funds or manages the superior court or its employees, reference to the county no longer functions as a reference to a superior court.

In some cases, it no longer appears appropriate for the provision to apply to the superior court. In others, it does appear appropriate for the provision to apply to the superior court.

Provisions in the former category are discussed first, followed by provisions in the latter category. Two provisions (Sections 1750 and 31116) are difficult to categorize. These provisions are discussed last.

Provisions that Should Not Apply to the Superior Court

Several provisions that refer to a county or judicial district contain material that, due to trial court restructuring reforms, no longer appears appropriate to apply to the superior court. In this situation, the only revision needed is removal of the obsolete reference to the judicial district.

For example, Section 25252.6 authorizes a board of supervisors to establish a revolving cash trust fund, to help eliminate delays to the county or judicial district from use of a trust fund. The section states:

25252.6. The board of supervisors may in its discretion establish and determine the amount of, or may by resolution authorize the county auditor to establish and determine the amount of, a revolving cash trust fund for the purpose of eliminating delays which adversely affect the official operation of offices and departments of the county or of judicial districts therein resulting

from regular deposits in and withdrawals from a trust fund established for the use of any such officer or department head. The amount of the revolving cash trust fund shall not exceed the amount of the trust fund. The revolving cash trust fund shall be used by the officer or department head for payment of services, expenses or other charges which are legally payable out of the deposits in the trust fund.

Because the county no longer manages or funds court operations, a revolving cash trust fund established by the board of supervisors no longer appears applicable to a court. **Accordingly, the staff recommends revising the section to remove references to a judicial district, as shown below.**

25252.6. The board of supervisors may in its discretion establish and determine the amount of, or may by resolution authorize the county auditor to establish and determine the amount of, a revolving cash trust fund for the purpose of eliminating delays which adversely affect the official operation of offices and departments of the county ~~or of judicial districts therein~~ resulting from regular deposits in and withdrawals from a trust fund established for the use of any ~~such~~ county officer or department head. The amount of the revolving cash trust fund shall not exceed the amount of the trust fund. The revolving cash trust fund shall be used by the officer or department head for payment of services, expenses or other charges which are legally payable out of the deposits in the trust fund.

Comment. Section 25252.6 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

The section is also amended to make a stylistic revision.

For provisions authorizing the board of supervisors to establish a revolving fund for use by a marshal who serves the superior court and is a county officer, see Section 71267.

Other provisions that also no longer appear applicable to a superior court are Sections 25257, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, and 29379. **Accordingly, the staff recommends similarly revising the provisions to remove references to a judicial district, as shown in the attachment.**

For two of these provisions, **the staff recommends specially soliciting comment on one or more issues.** See the proposed Notes for Sections 25257 and 29370. The Commission should consider whether to include these Notes as recommended, and if so, whether any revisions of them are needed.

Like the above sections, one provision — Section 29320 — appears to need revision to delete a reference to a judicial district. However, the provision also refers to a superior court, and sets forth a definition applicable to an entire article. Accordingly, the provision is discussed separately below.

Section 29320. Definition of “County Officer” for Purposes of §§ 29320-29334

Section 29320 is part of an article governing a revolving fund of a county. See Sections 29320-29334. Section 29321 authorizes the board of supervisors to establish a revolving fund for the use of any county officer.

Section 29320 defines, for purposes of the article, a county officer as including “any elective or appointive officer of a county, superior court, or judicial district” The reference to an officer of a superior court or judicial district dates back to at least 1975, when the section was last amended. See 1975 Cal. Stat. ch. 337, § 1.

Like the reference to an officer of a judicial district, the reference to an officer of a superior court appears to be obsolete. Money in the revolving fund may not be spent on any service or material unless it is a charge against the county. See Section 29326. As the superior court is no longer funded or managed by the county, it seems unlikely that a court officer could use a revolving fund that may only be used for a county expenditure. It thus appears that the article governing the revolving fund no longer applies to a court officer. Accordingly, the definition of a county officer in Section 29320 that applies to the article should no longer include a superior court officer, nor a judicial district officer. **The staff therefore recommends revising the section to delete the reference to an officer of a superior court or a judicial district, as shown below:**

29320. As used in this article, “officer of the county” includes any elective or appointive officer of a county, ~~superior court, or judicial district~~ and any person in charge of any office, department, service, or institution of the county, or a division or branch thereof.

Comment. Section 29320 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

See also Section 71267 & Comment (revolving fund for marshal).

Provisions that Should Apply to a Superior Court

Some provisions that refer to a judicial district alongside a county appear to contain material that should apply to a superior court. Before trial court restructuring, the material applied to a superior court by reference to a county or judicial district, because the county funded and managed its trial courts. However, now that the county no longer funds or manages its trial courts, reference to the county no longer serves as a reference to the superior court. Accordingly, if a provision should remain applicable to a superior court, revisions may be needed to make clear that the provision so applies.

For example, Section 1505 provides that non-criminal liability for nonperformance or malperformance of official duties attaches to the official’s bond:

1505. Whenever, except in criminal prosecutions, any special penalty, forfeiture, or liability is imposed on any officer of a county or judicial district for nonperformance or malperformance of official duties, the liability therefor attaches to the official bond of the officer, and to the principal and sureties thereon.

It appears that the rule in Section 1505 should remain applicable to a court officer, as it did before trial court restructuring.

Before trial court restructuring, Section 1505’s reference to “any officer of a ... judicial district” probably was included to encompass officers of the municipal and justice courts. Superior court officers were already encompassed by the reference to “any officer of the county.”

After trial court restructuring, superior court officers are no longer officers of a county. They could, however, be considered officers of a judicial district comprised of the county.

Code of Civil Procedure Section 38, enacted on Commission recommendation in connection with trial court unification, was intended to help clarify the meaning of statutory references to “judicial district” after unification. Code of Civil Procedure Section 38 and its Comment provide:

38. Unless the provision or context otherwise requires, a reference in a statute to a judicial district means:

- (a) As it relates to a court of appeal, the court of appeal district.
- (b) As it relates to a superior court, the county.
- (c) As it relates to a municipal court, the municipal court district.
- (d) As it relates to a county in which there is no municipal court, the county.

Comment. Section 38 is intended for drafting convenience. See also Section 17 (“judicial district” includes city and county). Court of appeal districts and municipal court districts are constitutionally mandated. See Cal. Const. art. VI, §§ 3, 5. Superior court districts do not exist except in Los Angeles County. See Gov’t Code §§ 69640-69650.

By operation of this section, in a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district. This general rule is subject to exceptions. See, e.g., Gov’t Code 71042.5 (preservation of judicial districts for purpose of publication).

Taken literally, Code of Civil Procedure Section 38(b) or (d) could be construed to mean that Section 1505’s reference to “any officer of a ... judicial district” equates to “any officer of a county.” That would be problematic, because then Section 1505 would no longer encompass an officer of a superior court.

Taken less literally, but perhaps more pragmatically in this context, Code of Civil Procedure Section 38(b) or (d) could be construed to mean that Section 1505’s reference to “any officer of a ... judicial district” equates to “any officer of a judicial district comprised of the county” — i.e., any officer of the superior court. Under this construction, Section 1505 would continue to apply to superior court officers, and no revisions of it would be needed.

The staff believes that the latter construction is most consistent with how the Commission intended Code of Civil Procedure Section 38 to operate in a context such as Section 1505. However, we are not sure this is sufficiently clear. A further

problem is that some people might not find Code of Civil Procedure Section 38 in researching Section 1505.

To prevent confusion, Section 1505 could be amended to expressly refer to superior court officers instead of officers of a judicial district:

1505. Whenever, except in criminal prosecutions, any special penalty, forfeiture, or liability is imposed on any officer of a county or ~~judicial district~~ superior court for nonperformance or malperformance of official duties, the liability therefor attaches to the official bond of the officer, and to the principal and sureties thereon.

Comment. Section 1505 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Does the Commission think such a revision is warranted? The staff is not altogether sure how to handle this matter. We would appreciate hearing the Commissioner's fresh perspective on this point, as well as the views of others.

Other provisions that raise similar issues are Sections 1090, 1091, 1195, 1223, 1224, 6100, 6108, 6109, and 12763.

Of these provisions, **Section 6109 is closely comparable to Section 1505 and probably should be handled in whatever manner the Commission decides to handle Section 1505.** A possible revision of Section 6109, similar to the possible revision of Section 1505 shown above, is presented in the attachment.

Section 6108 raises a different question. It provides:

6108. No officer of a county or judicial district shall charge or receive any fee or compensation for administering or certifying the oath of office or for filing or swearing to any claim or demand against any county in the State.

Here, the reference to “judicial district” may have been intended simply to cover municipal and justice court officers. But it is conceivable that the reference was meant to cover all court officers, including officers of the appellate courts, who may sometimes administer or certify an oath of office. If the reference to “judicial district” were replaced with a reference to “superior court” (to reflect that a superior court officer is no longer an “officer of a county”), that might render the statute inapplicable to officers of the appellate courts. The staff therefore recommends that if the Commission decides to propose the revision of Section 6108 shown in the attachment, **it should include a Note specially soliciting comment on whether such a revision would change the meaning of the statute by rendering it inapplicable to officers of the appellate courts, or whether the meaning would be unchanged because the statute was never meant to govern such officers.**

The remaining seven provisions (Sections 1090, 1091, 1195, 1223, 1224, 6100, and 12763) present a different complication. Each of them refers to an “officer of a judicial district,” presumably to encompass officers of the municipal court and justice courts. Each provision also refers to “an officer of a county,” which would have included officers of the superior court before the enactment of the TCEPGA and the switch to state funding of trial court operations. To reflect trial court restructuring, each provision could be revised to replace the reference to an “officer of a judicial district” with a reference to an “officer of a superior court,” like the other provisions discussed above.

But these seven provisions also refer to an “officer of the state.” For example, Section 1090 is a key ethical restriction on specified government personnel. It provides:

1090. Members of the Legislature, *state, county, district, judicial district, and city officers or employees* shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall *state, county, district, judicial district, and city officers or employees* be purchasers at any sale or vendors at any purchase made by them in their official capacity.

As used in this article, “district” means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(Emphasis added.)

The inclusion of “state ... officers or employees” raises the question of whether it would be necessary to separately refer to “superior court ... officers and employees.” Is a superior court officer necessarily an officer or employee of the state after trial court restructuring?

Unfortunately, the answer to this question does not appear as clear-cut as the staff hoped. *Compare* Section 811.9(a) (implying superior court officer generally is *not* state officer by providing that, for purposes of Sections 810-995, superior court officer is state officer) *with* Section 68204 (implying superior court officer generally *is* state officer by providing that justice or judge named in Sections 68200 through 68202, which names superior court judge, is not state officer for purposes of Section 11569).

Because there is some ambiguity about whether the reference to state officers and employees would suffice to cover superior court officers and employees, it may be safest to specifically refer to “superior court ... officers and employees,” as shown in the proposed revision of Section 1090 in the attachment. But that might prompt questions about whether the statute applies to appellate court officers and employees, or only superior court officers and employees.

Such issues may generate concern, because Section 1090 and some of the other provisions in this category are key ethical restrictions. This problem might be significant enough to tip the scale in favor of simply leaving the statutes alone. The Commission should **consider the pros and cons of proposing the revisions of Sections 1090, 1091, 1195, 1223, 1224, 6100, and 12763 as shown in the attachment**, bearing in mind that we are at an early stage of this study and circulating these revisions might help to generate useful comments.

Provisions that Should Apply to a Superior Court that Need Further Revision

A few provisions containing material that should apply to a superior court need further revision to reflect trial court restructuring, beyond possible revisions to replace a reference to a judicial district with a reference to the superior court.

For example, Section 1651 provides that a county pays a bond premium for an officer or employee of a county or judicial district:

1651. The premium or charge for bonds given by surety companies for the officers, herein named, and for their deputies, clerks, assistants or subordinate officers shall be paid as follows:

- (a) State officers, by the State.
- (b) *County officers, by the county.*

(c) *Officers of a judicial district, by the county in which the district is situated.*

(d) School districts or other special district officers, by the school district or other special district, respectively.

(e) City officers, by the city.

(Emphasis added.)

Because the county funded and employed officers and employees of the superior court before trial court restructuring, it made sense for the county to pay the bond premium for officers and employees of the court. Under trial court restructuring reforms, the court manages its officers and employees, who are paid with state funds. Accordingly, it appears that the court should now pay the bond premium for such officers and employees. **The staff therefore recommends revising Section 1651, as follows:**

1651. The premium or charge for bonds given by surety companies for the officers, herein named, and for their deputies, clerks, assistants or subordinate officers shall be paid as follows:

(a) State officers, by the State.

(b) County officers, by the county.

(c) Officers of a ~~judicial district~~ superior court, by the ~~county in which the district is situated~~ court.

(d) School districts or other special district officers, by the school district or other special district, respectively.

(e) City officers, by the city.

Comment. Section 1651 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Section 27080.1 is similar, in that it appears to need revisions beyond simply replacing "judicial district" with "superior court." To reflect trial court restructuring, **the staff recommends that it be revised as follows:**

27080.1. Where the county treasurer has entered into a contract for the deposit of moneys with a depository pursuant to Section 53682, the county treasurer may authorize any county officer ~~or judicial district~~, required to deposit into the county treasury all money collected by ~~him or her~~ the officer or the district, to deposit that money directly into the depository with whom the county treasurer has entered into the contract. The county treasurer may also authorize any superior court officer to deposit money collected by the officer that is payable to the county treasury into the depository. All deposits made under authority granted by the treasurer pursuant to this section shall be made in the form as required by the treasurer, and receipts for those deposits shall be given in accordance with Section 27009.

Comment. Section 27080.1 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

(4) Enactment of Section 24353 (authorizing officer of county or superior court, with county treasurer's approval under Section 27080.1, to deposit into treasurer's active account). See 2005 Cal. Stat. ch. 75, § 48.

The section is also amended to make stylistic revisions.

As noted in paragraph (4) of the Comment, there do appear to be circumstances in which a court officer collects money payable to the county treasury.

Section 1750. Resignation by Specified Officers

Section 1750 governs the resignation of specified officers:

1750. Resignations shall be in writing, and made as follows:

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all officers of a county or judicial district or special district other than an air pollution control district which includes territory in more than one county or a school district, not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties, unless by the terms of the act under which a district is formed appointment to vacancies is made by other than the board of supervisors, in which case the resignation shall be submitted to the appointing body.

(e) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

(f) By all other appointed officers, to the body or officer that appointed them.

If resignation by an officer is not governed by Section 1750 or other provision, a catch-all rule in Section 1751 provides for the resignation to be tendered to the Secretary of State.

Before trial court restructuring, it appears that Section 1750(d), referring to “all officers of a county or judicial district,” governed the resignation by a trial court officer. Due to the shift of responsibility of funding trial courts from the county to the state, the reference to an officer of a county no longer encompasses an officer of the superior court.

Accordingly, should Section 1750(d) be revised to apply to an officer of a superior court? That would require a superior court officer who resigns to provide written resignation to the clerk of the board of supervisors. Perhaps that is appropriate, given that the election of a superior court judge is a countywide election. See Cal. Const. art. VI, § 16(b). (Note, other provisions appear to facilitate notification of the resignation to the Judicial Council and other entities. See, e.g., Sections 68505 (requiring county clerk to report matters to Chair of Judicial Council); see also 68504 (requiring Secretary of Judicial Council to report judicial resignation to Controller and retirement systems).)

However, now that superior court officers (which include nonjudicial, unelected officers) are no longer employed by the county, it seems more likely that a superior court officer should be required to provide written resignation to the presiding judge (or the court clerk, court executive officer, or other person associated with the superior court), instead of the clerk of the board of supervisors. **The staff therefore recommends the following revision of Section 1750:**

1750. Resignations shall be in writing, and made as follows:

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all officers of a county ~~or judicial district~~ or special district other than an air pollution control district which includes territory in more than one county or a school district, not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties, unless by the terms of the act under which a district is formed appointment to vacancies is made by other than the board of supervisors, in which case the resignation shall be submitted to the appointing body.

(e) By officers of a superior court, to the presiding judge.

(f) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

~~(f)~~ (g) By all other appointed officers, to the body or officer that appointed them.

Comment. Section 1750 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

We would specially solicit comment on precisely who at the superior court should receive the written resignation, and whether the clerk of the board of supervisors should receive the resignation instead of, or in addition to, someone at the superior court.

Section 31116. Travel Expenses of County Applicants

Section 31116 also contains a reference to a county or judicial district that needs revision to reflect trial court restructuring. However, the extent of revisions needed to reflect trial court restructuring is unclear.

The section authorizes the county to pay travel expenses of applicants for employment by a county or judicial district, if deemed necessary by the board of supervisors:

31116. For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, a county may expend county funds to pay reasonable travel expenses of applicants for county or judicial district employment in traveling, from any point within the continental United States, to and from the place or places at which the applicants are to be examined or interviewed. Such payments shall be authorized only upon a determination by the board of supervisors that the expenditure is necessary to recruit qualified persons needed by the county or judicial district.

Before trial court restructuring, the county could expend public funds to recruit court employees under the conditions specified in Section 31116.

Now that the court, instead of the county, hires court employees, perhaps the court should be authorized to expend public funds (i.e., court funds) to recruit court employees under conditions like those specified in Section 31116. However, the TCEPGA enacted a comprehensive scheme governing court employment. The provisions in the TCEPGA relating to hiring do not appear to authorize courts to pay applicants' travel expenses. See, e.g., Sections 71620, 71622, 71640-71645. The absence of such authority in the comprehensive scheme governing court employment may indicate an intent for courts not to pay such expenses. Cf. Section 71645(a) (providing that Sections 71640-71645 of the TCEPGA "replac[e] any aspects of county employment, selection, and advancement systems applying to trial court employees" that previously applied to such employees).

The staff is therefore inclined to simply delete Section 31116's references to a judicial district:

31116. For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, a county may expend county funds to pay reasonable travel expenses of applicants for county ~~or judicial district~~ employment in traveling, from any point within the continental United States, to and from

the place or places at which the applicants are to be examined or interviewed. Such payments shall be authorized only upon a determination by the board of supervisors that the expenditure is necessary to recruit qualified persons needed by the county or ~~judicial district~~.

Comment. Section 31116 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

We would include a Note that explains our view of the TCEPGA's impact on Section 31116, and solicit comment on whether that view is correct.

NEXT STEP

The Commission needs to decide whether to approve, with or without change, the provisions discussed in this memorandum for purposes of preparing a tentative recommendation.

In order to have the revisions in this study introduced in a bill next year, the Commission will need to approve a tentative recommendation at the August meeting. Accordingly, the staff will prepare a draft of a tentative recommendation for the August meeting that reflects the Commission's decisions that the Commission has made thus far in this study. When the staff prepares the draft, we will also prepare a memorandum discussing some comments received on those provisions that we have not already presented. In addition, we may also present some new material from the Government Code, for possible inclusion in the tentative recommendation.

Respectfully submitted,

Catherine Bidart
Staff Counsel

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PROPOSED LEGISLATION

1 **Gov't Code § 1090 (amended). Financial interest in contract**

2 SEC. _____. Section 1090 of the Government Code is amended to read:

3 1090. Members of the Legislature, state, county, district, ~~judicial district~~
4 superior court, and city officers or employees shall not be financially interested in
5 any contract made by them in their official capacity, or by any body or board of
6 which they are members. Nor shall state, county, district, ~~judicial district~~ superior
7 court, and city officers or employees be purchasers at any sale or vendors at any
8 purchase made by them in their official capacity.

9 As used in this article, "district" means any agency of the state formed pursuant
10 to general law or special act, for the local performance of governmental or
11 proprietary functions within limited boundaries.

12 **Comment.** Section 1090 is amended to reflect:

13 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
14 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
15 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
16 reference to "judicial district" generally meant "municipal court district").

17 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
18 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
19 court employees).

20 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
21 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
22 ("court operations" defined), 77200 (state funding of trial court operations).

23 **Gov't Code § 1091 (amended). Remote interest in contract**

24 SEC. _____. Section 1091 of the Government Code is amended to read:

25 1091. (a) An officer shall not be deemed to be interested in a contract entered
26 into by a body or board of which the officer is a member within the meaning of
27 this article if the officer has only a remote interest in the contract and if the fact of
28 that interest is disclosed to the body or board of which the officer is a member and
29 noted in its official records, and thereafter the body or board authorizes, approves,
30 or ratifies the contract in good faith by a vote of its membership sufficient for the
31 purpose without counting the vote or votes of the officer or member with the
32 remote interest.

33 (b) As used in this article, "remote interest" means any of the following:

34 (1) That of an officer or employee of a nonprofit entity exempt from taxation
35 pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec.
36 501(c)(3)) or a nonprofit corporation, except as provided in paragraph (8) of
37 subdivision (a) of Section 1091.5.

38 (2) That of an employee or agent of the contracting party, if the contracting
39 party has 10 or more other employees and if the officer was an employee or agent
40 of that contracting party for at least three years prior to the officer initially

1 accepting his or her office and the officer owns less than 3 percent of the shares of
2 stock of the contracting party; and the employee or agent is not an officer or
3 director of the contracting party and did not directly participate in formulating the
4 bid of the contracting party.

5 For purposes of this paragraph, time of employment with the contracting party
6 by the officer shall be counted in computing the three-year period specified in this
7 paragraph even though the contracting party has been converted from one form of
8 business organization to a different form of business organization within three
9 years of the initial taking of office by the officer. Time of employment in that case
10 shall be counted only if, after the transfer or change in organization, the real or
11 ultimate ownership of the contracting party is the same or substantially similar to
12 that which existed before the transfer or change in organization. For purposes of
13 this paragraph, stockholders, bondholders, partners, or other persons holding an
14 interest in the contracting party are regarded as having the “real or ultimate
15 ownership” of the contracting party.

16 (3) That of an employee or agent of the contracting party, if all of the following
17 conditions are met:

18 (A) The agency of which the person is an officer is a local public agency located
19 in a county with a population of less than 4,000,000.

20 (B) The contract is competitively bid and is not for personal services.

21 (C) The employee or agent is not in a primary management capacity with the
22 contracting party, is not an officer or director of the contracting party, and holds
23 no ownership interest in the contracting party.

24 (D) The contracting party has 10 or more other employees.

25 (E) The employee or agent did not directly participate in formulating the bid of
26 the contracting party.

27 (F) The contracting party is the lowest responsible bidder.

28 (4) That of a parent in the earnings of his or her minor child for personal
29 services.

30 (5) That of a landlord or tenant of the contracting party.

31 (6) That of an attorney of the contracting party or that of an owner, officer,
32 employee, or agent of a firm that renders, or has rendered, service to the
33 contracting party in the capacity of stockbroker, insurance agent, insurance broker,
34 real estate agent, or real estate broker, if these individuals have not received and
35 will not receive remuneration, consideration, or a commission as a result of the
36 contract and if these individuals have an ownership interest of 10 percent or more
37 in the law practice or firm, stock brokerage firm, insurance firm, or real estate
38 firm.

39 (7) That of a member of a nonprofit corporation formed under the Food and
40 Agricultural Code or a nonprofit corporation formed under the Corporations Code
41 for the sole purpose of engaging in the merchandising of agricultural products or
42 the supplying of water.

1 (8) That of a supplier of goods or services when those goods or services have
2 been supplied to the contracting party by the officer for at least five years prior to
3 his or her election or appointment to office.

4 (9) That of a person subject to the provisions of Section 1090 in any contract or
5 agreement entered into pursuant to the provisions of the California Land
6 Conservation Act of 1965.

7 (10) Except as provided in subdivision (b) of Section 1091.5, that of a director
8 of, or a person having an ownership interest of, 10 percent or more in a bank, bank
9 holding company, or savings and loan association with which a party to the
10 contract has a relationship of borrower or depositor, debtor or creditor.

11 (11) That of an engineer, geologist, or architect employed by a consulting
12 engineering or architectural firm. This paragraph applies only to an employee of a
13 consulting firm who does not serve in a primary management capacity, and does
14 not apply to an officer or director of a consulting firm.

15 (12) That of an elected officer otherwise subject to Section 1090, in any housing
16 assistance payment contract entered into pursuant to Section 8 of the United States
17 Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the
18 housing assistance payment contract was in existence before Section 1090 became
19 applicable to the officer and will be renewed or extended only as to the existing
20 tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent,
21 as to new tenants in a unit previously under a Section 8 contract. This section
22 applies to any person who became a public official on or after November 1, 1986.

23 (13) That of a person receiving salary, per diem, or reimbursement for expenses
24 from a government entity.

25 (14) That of a person owning less than 3 percent of the shares of a contracting
26 party that is a for-profit corporation, provided that the ownership of the shares
27 derived from the person's employment with that corporation.

28 (15) That of a party to litigation involving the body or board of which the officer
29 is a member in connection with an agreement in which all of the following apply:

30 (A) The agreement is entered into as part of a settlement of litigation in which
31 the body or board is represented by legal counsel.

32 (B) After a review of the merits of the agreement and other relevant facts and
33 circumstances, a court of competent jurisdiction finds that the agreement serves
34 the public interest.

35 (C) The interested member has recused himself or herself from all participation,
36 direct or indirect, in the making of the agreement on behalf of the body or board.

37 (16) That of a person who is an officer or employee of an investor-owned utility
38 that is regulated by the Public Utilities Commission with respect to a contract
39 between the investor-owned utility and a state, county, district, ~~judicial district~~
40 superior court, or city body or board of which the person is a member, if the
41 contract requires the investor-owned utility to provide energy efficiency rebates or
42 other type of program to encourage energy efficiency that benefits the public when
43 all of the following apply:

1 (A) The contract is funded by utility consumers pursuant to regulations of the
2 Public Utilities Commission.

3 (B) The contract provides no individual benefit to the person that is not also
4 provided to the public, and the investor-owned utility receives no direct financial
5 profit from the contract.

6 (C) The person has recused himself or herself from all participation in making
7 the contract on behalf of the state, county, district, ~~judicial district~~ superior court,
8 or city body or board of which he or she is a member.

9 (D) The contract implements a program authorized by the Public Utilities
10 Commission.

11 (c) This section is not applicable to any officer interested in a contract who
12 influences or attempts to influence another member of the body or board of which
13 he or she is a member to enter into the contract.

14 (d) The willful failure of an officer to disclose the fact of his or her interest in a
15 contract pursuant to this section is punishable as provided in Section 1097. That
16 violation does not void the contract unless the contracting party had knowledge of
17 the fact of the remote interest of the officer at the time the contract was executed.

18 **Comment.** Subdivisions (b)(16) and (b)(16)(C) of Section 1091 are amended to reflect:

19 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
20 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
21 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
22 reference to "judicial district" generally meant "municipal court district").

23 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
24 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
25 court employees).

26 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
27 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
28 ("court operations" defined), 77200 (state funding of trial court operations).

29 **Gov't Code § 1195 (amended). Diversion of fees**

30 SEC. _____. Section 1195 of the Government Code is amended to read:

31 1195. Every officer of the State, or of any county, city, or ~~judicial district~~
32 superior court who accepts, keeps, retains or diverts for ~~his~~ the officer's own use
33 or the use of any other person any part of the salary or fees allowed by law to ~~his~~
34 the officer's deputy, or other subordinate officer, is guilty of a felony.

35 **Comment.** Section 1195 is amended to reflect:

36 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
37 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
38 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
39 reference to "judicial district" generally meant "municipal court district").

40 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
41 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
42 court employees).

43 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
44 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
45 ("court operations" defined), 77200 (state funding of trial court operations).

46 Section 1195 is also amended to make stylistic revisions.

Gov't Code § 1223 (amended). Allowance or mileage rate in lieu of transportation charges

SEC. _____. Section 1223 of the Government Code is amended to read:

1223. When traveling expenses are allowed by law to any state, county, ~~judicial district~~ superior court, or city officer, ~~he~~ the officer may contract with the appropriate authorities for an allowance or mileage rate for the use of vehicles owned or rented and used by ~~him~~ the officer in the performance of duty, in lieu of the usual transportation charges.

Comment. Section 1223 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

The section is also amended to make it gender-neutral.

For other provisions relating to travel expenses of court officers, see Sections 68506.5 (directing Judicial Council to adopt travel reimbursement policies, procedures, and rates for judicial branch), 69505 (prescribing procedures for business-related travel expenses of trial court judges and employees). See also Cal. R. Ct. 10.106; Cal. R. Ct. 810(d), Function 10 ("travel and transportation (judicial and nonjudicial)").

Gov't Code § 1224 (amended). Refund for postage paid by officer

SEC. _____. Section 1224 of the Government Code is amended to read:

1224. Any money paid by a state, county, ~~judicial district~~ superior court, or city officer for United States postage for use in conducting the official business of ~~his~~ that person's office may be refunded to ~~him~~ the officer by claim allowed in accordance with law.

Comment. Section 1224 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

The section is also amended to make it gender-neutral.

Gov't Code § 1505 (amended). Nonperformance or malperformance of duties by county or court officer

SEC. _____. Section 1505 of the Government Code is amended to read:

1 1505. Whenever, except in criminal prosecutions, any special penalty, forfeiture,
2 or liability is imposed on any officer of a county or ~~judicial district~~ superior court
3 for nonperformance or malperformance of official duties, the liability therefor
4 attaches to the official bond of the officer, and to the principal and sureties
5 thereon.

6 **Comment.** Section 1505 is amended to reflect:

7 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
8 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
9 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
10 reference to "judicial district" generally meant "municipal court district").

11 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
12 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
13 court employees).

14 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
15 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
16 ("court operations" defined), 77200 (state funding of trial court operations).

17 **Gov't Code § 1651 (amended). Payment of bond premium**

18 SEC. _____. Section 1651 of the Government Code is amended to read:

19 1651. The premium or charge for bonds given by surety companies for the
20 officers, herein named, and for their deputies, clerks, assistants or subordinate
21 officers shall be paid as follows:

22 (a) State officers, by the State.

23 (b) County officers, by the county.

24 (c) Officers of a ~~judicial district~~ superior court, by the ~~county in which the~~
25 ~~district is situated~~ court.

26 (d) School districts or other special district officers, by the school district or
27 other special district, respectively.

28 (e) City officers, by the city.

29 **Comment.** Section 1651 is amended to reflect:

30 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
31 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
32 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
33 reference to "judicial district" generally meant "municipal court district").

34 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
35 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
36 court employees).

37 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
38 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
39 ("court operations" defined), 77200 (state funding of trial court operations).

40 **Gov't Code § 1750 (amended). Resignation by specified officers**

41 SEC. _____. Section 1750 of the Government Code is amended to read:

42 1750. Resignations shall be in writing, and made as follows:

43 (a) By the Governor and Lieutenant Governor, to the Legislature, if it is in
44 session; and if not, then to the Secretary of State.

45 (b) By all officers commissioned by the Governor, to the Governor.

1 (c) By Senators and Members of the Assembly, to the presiding officers of their
2 respective houses, who shall immediately transmit the resignation to the Governor.

3 (d) By all officers of a county ~~or judicial district~~ or special district other than an
4 air pollution control district which includes territory in more than one county or a
5 school district, not commissioned by the Governor, to the clerk of the board of
6 supervisors of their respective counties, unless by the terms of the act under which
7 a district is formed appointment to vacancies is made by other than the board of
8 supervisors, in which case the resignation shall be submitted to the appointing
9 body.

10 (e) By officers of a superior court, to the presiding judge.

11 (f) By officers of a municipal corporation, to the clerk of the legislative body of
12 their corporation.

13 ~~(f)~~ (g) By all other appointed officers, to the body or officer that appointed them.

14 **Comment.** Section 1750 is amended to reflect:

15 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
16 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
17 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
18 reference to "judicial district" generally meant "municipal court district").

19 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
20 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
21 court employees).

22 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
23 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
24 ("court operations" defined), 77200 (state funding of trial court operations).

25 **Note.** The Commission specially seeks comment on who should receive written resignation
26 by a superior court officer. Specifically, should it be provided to the presiding judge of the
27 superior court (or court clerk, or court executive officer, or some other person at the court)? Or
28 should the resignation be provided to the board of supervisors, as before trial court restructuring?
29 Or should the resignation be provided to both a person at the superior court and to the board of
30 supervisors?

31 **Gov't Code § 6100 (amended). Fees for official services**

32 SEC. _____. Section 6100 of the Government Code is amended to read:

33 6100. Officers of the state, or of a county or ~~judicial district~~ superior court, shall
34 not perform any official services unless upon the payment of the fees prescribed
35 by law for the performance of the services, except as provided in this chapter.

36 This section shall not be construed to prohibit any notary public, except a notary
37 public whose fees are required by law to be remitted to the state or any other
38 public agency, from performing notarial services without charging a fee.

39 **Comment.** Section 6100 is amended to reflect:

40 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
41 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
42 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
43 reference to "judicial district" generally meant "municipal court district").

44 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
45 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
46 court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

Gov’t Code § 6108 (amended). Administering oath of office and swearing to claim

SEC. _____. Section 6108 of the Government Code is amended to read:

6108. (a) No officer of a county or ~~judicial district~~ superior court shall charge or receive any fee or compensation for administering or certifying the oath of office.

(b) No officer of a county shall charge or receive any fee or compensation ~~or~~ for filing or swearing to any claim or demand against any county in the State.

Comment. Section 6108 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

Note. The Commission specially seeks comment on whether the proposed revision of Section 6108 shown above would change the meaning of the statute by rendering it inapplicable to officers of the appellate courts, or whether the meaning would be unchanged because the statute was never meant to govern such officers, only trial court officers.

Gov’t Code § 6109 (amended). Receipt for payment of fees

SEC. _____. Section 6109 of the Government Code is amended to read:

6109. Every officer of a county or ~~judicial district~~ superior court, upon receiving any fees for official duty or service, may be required by the person paying the fees to make out in writing and to deliver to the person a particular account of the fees. The account shall specify for what the fees, respectively, accrued, and the officer shall receipt it. If the officer refuses or neglects to do so when required, ~~he~~ the officer is liable to the person paying the fees in treble the amount so paid.

Comment. Section 6109 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

The section is also amended to make it gender neutral.

1 **Gov't Code § 12763 (amended). Vote by officer also serving on tripartite board of**
2 **community action agency**

3 SEC. _____. Section 12763 of the Government Code is amended to read:

4 12763. Consistent with Section 1090, no Member of the Legislature, or any
5 state, county, district, ~~judicial district~~ superior court, or city officer or employee
6 who also serves on a tripartite board shall vote on a contract or other matter before
7 a tripartite board, that would have a direct bearing on services to be provided by
8 that member, officer, or employee, or any business or organization which that
9 member, officer, or employee directly represents or that would financially benefit
10 that member, officer, or employee, or the business or organization that the
11 member, officer, or employee directly represents.

12 **Comment.** Section 12763 is amended to reflect:

13 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
14 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
15 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
16 reference to "judicial district" generally meant "municipal court district").

17 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
18 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
19 court employees).

20 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
21 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
22 ("court operations" defined), 77200 (state funding of trial court operations).

23 **Gov't Code § 23249 (amended). County Boundary Review Commission's determination of**
24 **boundaries and districts**

25 SEC. _____. Section 23249 of the Government Code is amended to read:

26 23249. The commission shall determine:

27 (a) An equitable distribution, as between the transferring county and the
28 accepting county, of the indebtedness of each affected county.

29 (b) The fiscal impact of the proposed boundary change in each affected county.

30 (c) The economic viability of each affected county if the proposed boundary
31 change is effected.

32 (d) The final boundary lines between the two affected counties as they will exist
33 if the proposed boundary change is effected.

34 (e) A procedure for the orderly and timely transition of services, functions and
35 responsibilities from the transferring county to the accepting county.

36 (f) The division of both affected counties into five supervisorial districts. The
37 boundaries of the districts shall be established in a manner that results in a
38 population in each district which is as equal as possible to the population in each
39 other district within the county.

40 (g) The division of both affected counties into a convenient and necessary
41 number of ~~judicial~~, road and school districts, the territory of which shall be
42 defined. To the extent possible, existing ~~judicial~~, road and school districts located
43 within the territory which is to be transferred shall be maintained.

1 **Comment.** Subdivision (g) of Section 23249 is amended to reflect the unification of the
2 municipal and superior courts pursuant to former Section 5(e) of Article VI of the California
3 Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n
4 Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to
5 “judicial district” generally meant “municipal court district”). For provisions relating to
6 boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new
7 county) and 69100 (court of appeal districts in existing counties).

8 **Gov’t Code § 23332 (amended). County Boundary Review Commission’s determination of**
9 **proposed county’s boundaries and districts**

10 SEC. _____. Section 23332 of the Government Code is amended to read:

11 23332. The commission shall determine all of the following:

12 (a) A fair, just, and equitable distribution, as between each affected county and
13 the proposed county, of the indebtedness of each affected county.

14 (b) The fiscal impact of the proposed county creation on each affected county.

15 (c) The economic viability of the proposed county.

16 (d) The final boundaries of the proposed county, pursuant to Sections 23337,
17 23337.5, and 23338.

18 (e) A procedure for the orderly and timely transition of service functions and
19 responsibilities from the affected county or counties to the proposed county.

20 (f) The division of the proposed county into five supervisorial districts. The
21 boundaries of the districts shall be established in a manner which results in a
22 population in each district which is as equal as possible to the population in each
23 of the other districts within the county.

24 (g) The division of the proposed county into a convenient and necessary number
25 of ~~judicial~~, road, and school districts, the territory of which shall be defined. To
26 the extent possible, existing ~~judicial~~, road, and school districts located within the
27 territory of the proposed county shall be maintained.

28 (h) Which county offices shall be filled by election at the subsequent election of
29 officials for an approved county conducted pursuant to Article 4.5 (commencing
30 with Section 23374.1), and which of the offices shall be filled by appointments
31 made by the board of supervisors of the approved county. At a minimum, the
32 county offices to be filled by election shall be those which by law, are required to
33 be filled by election.

34 (i) That the boundaries of the proposed county do not create a territory
35 completely surrounded by any affected county.

36 (j) The location of the county seat of the proposed county.

37 (k) The appropriations limit for the proposed county in accordance with Section
38 4 of Article XIII B of the California Constitution.

39 The commission shall not be required to make any other determinations.

40 **Comment.** Subdivision (g) of Section 23332 is amended to reflect the unification of the
41 municipal and superior courts pursuant to former Section 5(e) of Article VI of the California
42 Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n
43 Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to
44 “judicial district” generally meant “municipal court district”). For provisions relating to

boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

Gov't Code § 23535 (amended). County Boundary Review Commission's determination of consolidated county's boundaries and districts

SEC. _____. Section 23535 of the Government Code is amended to read:

23535. The commission shall determine:

(a) The fiscal impact of the proposed consolidation on the affected counties.

(b) A procedure for the orderly and timely transition of services, functions and responsibilities from each affected county to the consolidated county.

(c) The division of the proposed consolidated county into five supervisorial districts.

(d) The division of the proposed consolidated county into a convenient and necessary number of ~~judicial~~, road and school districts, the territory of which shall be defined.

(e) The county officers to be elected at the election provided for in Section 23550.

(f) The location of the county seat of the proposed consolidated county.

Comment. Subdivision (d) of Section 23535 is amended to reflect the unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

Gov't Code § 25252.6 (amended). Revolving cash trust fund

SEC. _____. Section 25252.6 of the Government Code is amended to read:

25252.6. The board of supervisors may in its discretion establish and determine the amount of, or may by resolution authorize the county auditor to establish and determine the amount of, a revolving cash trust fund for the purpose of eliminating delays which adversely affect the official operation of offices and departments of the county ~~or of judicial districts therein~~ resulting from regular deposits in and withdrawals from a trust fund established for the use of any ~~such~~ county officer or department head. The amount of the revolving cash trust fund shall not exceed the amount of the trust fund. The revolving cash trust fund shall be used by the officer or department head for payment of services, expenses or other charges which are legally payable out of the deposits in the trust fund.

Comment. Section 25252.6 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

The section is also amended to make a stylistic revision.

For provisions authorizing the board of supervisors to establish a revolving fund for use by a marshal who serves the superior court and is a county officer, see Section 71267.

Gov’t Code § 25257 (amended). Collection of money payable to a county

SEC. _____. Section 25257 of the Government Code is amended to read:

25257. Any department, officer, or employee of a county ~~or a judicial district in the county~~, charged by law with the collection of any county or district tax assessment, penalty, cost, or license fees, ~~or any judicial district fine, assessment, or penalty, or any money~~, which is due and payable to the county or district for any reason, may apply to the board of supervisors for a discharge from accountability for the collection thereof if the amount is too small to justify the cost of collection, the likelihood of collection does not warrant the expense involved, or the amount thereof has been otherwise lawfully compromised or adjusted.

Comment. Section 25257 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

Note. The Commission specially seeks comment on whether the superior court has the same authority as that given to county officers and employees in Section 25257, and, if not, whether it should have such authority.

Gov’t Code § 27080.1 (amended). County depository

SEC. _____. Section 27080.1 of the Government Code is amended to read:

27080.1. Where the county treasurer has entered into a contract for the deposit of moneys with a depository pursuant to Section 53682, the county treasurer may authorize any county officer ~~or judicial district~~, required to deposit into the county treasury all money collected by ~~him or her~~ the officer or the district, to deposit that money directly into the depository with whom the county treasurer has entered into the contract. The county treasurer may also authorize any superior court officer to deposit money collected by the officer that is payable to the county treasury into the depository. All deposits made under authority granted by the treasurer pursuant to this section shall be made in the form as required by the treasurer, and receipts for those deposits shall be given in accordance with Section 27009.

1 **Comment.** Section 27080.1 is amended to reflect:

2 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
3 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
4 Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
5 reference to “judicial district” generally meant “municipal court district”).

6 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
7 Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial
8 court employees).

9 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
10 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
11 (“court operations” defined), 77200 (state funding of trial court operations).

12 (4) Enactment of Section 24353 (authorizing officer of county or superior court, with county
13 treasurer’s approval under Section 27080.1, to deposit into treasurer’s active account). See 2005
14 Cal. Stat. ch. 75, § 48.

15 The section is also amended to make stylistic revisions.

16 ☞ **Staff Note.** The Comment refers to Section 24353. It should be noted that the Commission
17 tentatively decided to move the substance of Section 24353 relating to a superior court to a new
18 provision, proposed Section 68083.5. See Minutes (Feb. 2010), p. 8. When the staff drafts a
19 tentative recommendation that includes proposed Section 68083.5, the staff will revise the
20 Comment above to refer to Section 68083.5 instead of Section 24353.

21 **Gov’t Code § 29320 (amended). “Officer of county” defined**

22 SEC. _____. Section 29320 of the Government Code is amended to read:

23 29320. As used in this article, “officer of the county” includes any elective or
24 appointive officer of a county, ~~superior court, or judicial district~~ and any person in
25 charge of any office, department, service, or institution of the county, or a division
26 or branch thereof.

27 **Comment.** Section 29320 is amended to reflect:

28 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
29 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
30 Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
31 reference to “judicial district” generally meant “municipal court district”).

32 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
33 Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial
34 court employees).

35 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
36 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
37 (“court operations” defined), 77200 (state funding of trial court operations).

38 See also Section 71267 & Comment (revolving fund for marshal).

39 **Gov’t Code § 29370 (amended). County officers’ cash difference fund**

40 SEC. _____. Section 29370 of the Government Code is amended to read:

41 29370. The board of supervisors may establish a county officers cash difference
42 fund for the use of any county officer or administrative head of any county
43 department or ~~judicial district~~ handling county funds by adopting a resolution
44 setting forth the amount of the fund. Certified copies of the resolution shall be
45 transmitted to the county auditor and to each county officer or administrative head
46 of a county department or ~~judicial district~~ who has such fund.

47 **Comment.** Section 29370 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Note. The Commission specially seeks comment on whether the superior court is authorized to establish a cash difference fund akin to the fund authorized under Section 29370. If the court lacks such authority, should it be given that authority? Further, if the court currently has, or should be given authority to establish a fund akin to the one authorized under Section 29370, should rules comparable to the ones in the article containing Section 19370 govern the fund (i.e., Sections 29370.1-29390.1)?

Gov't Code § 29370.1 (amended). County auditor

SEC. _____. Section 29370.1 of the Government Code is amended to read:

29370.1. As an alternative to Section 29370, the board of supervisors may, by resolution, authorize the county auditor to perform the functions of the board in establishing, increasing, reducing, or discontinuing any county officers cash difference fund.

The resolution adopted by the board of supervisors may set the amount of the fund. If the board of supervisors adopts the resolution, the county auditor shall do all of the following:

(a) Be subject to the same requirements and limitations otherwise prescribed for the board of supervisors in this article.

(b) In lieu of acting by resolution, act by signed statement having the same content otherwise prescribed in this article for resolutions.

(c) Render a written report to the board of ~~supervisers~~ supervisors at the end of each fiscal year identifying the cash difference funds in existence during the fiscal year, the amount of those funds, and the officer using the fund. The board of supervisors may require the county auditor to give an account of the cash difference fund at any other time.

The county auditor shall send a copy of ~~his or her~~ the auditor's signed statement to each county officer or administrative head of a county department ~~or judicial district~~ who has the fund.

Comment. Section 29370.1 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

The section is also amended to make stylistic revisions.

Gov’t Code § 29371 (amended). Overage fund

SEC. _____. Section 29371 of the Government Code is amended to read:

29371. If the board elects to establish a cash difference fund, it shall by the same resolution also establish an overage fund for the use of each county officer or administrative head of a county department ~~or judicial district~~ affected.

Comment. Section 29371 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

Gov’t Code § 29372 (amended). Warrant

SEC. _____. Section 29372 of the Government Code is amended to read:

29372. Upon the adoption of the resolution, the auditor shall draw ~~his~~ a warrant in favor of the county officer or administrative head of a county department ~~or judicial district~~ in the amount set forth in the resolution, and the treasurer shall pay the warrant. The county officer or administrative head of a county department ~~or judicial district~~ shall use this fund only for cash deficits pursuant to this article.

Comment. Section 29372 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of trial court operations).

The section is also amended to make it gender-neutral.

Gov’t Code § 29373 (amended). Daily written report

SEC. _____. Section 29373 of the Government Code is amended to read:

29373. Any person in any county office, or department, ~~or judicial district~~ in which a cash difference fund has been established who receives and disburses money placed in ~~his~~ the person’s custody as directed by law or by official authority, shall render a written report to the county officer or administrative head

1 of a county department ~~or judicial district~~ at the close of each business day, setting
2 forth the exact sum of any cash deficit or overage in ~~his~~ the person's account for
3 that day. Failure to report any cash deficit or overage at the close of the business
4 day in which it occurred is a violation of this article.

5 **Comment.** Section 29373 is amended to reflect:

6 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
7 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
8 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
9 reference to "judicial district" generally meant "municipal court district").

10 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
11 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
12 court employees).

13 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
14 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
15 ("court operations" defined), 77200 (state funding of trial court operations).

16 The section is also amended to make it gender-neutral.

17 **Gov't Code § 29374 (amended). Cash deficit reimbursement**

18 SEC. _____. Section 29374 of the Government Code is amended to read:

19 29374. If a cash deficit is reported to the county officer or administrative head of
20 a county department, ~~or judicial district, he~~ the county officer or administrative
21 head shall immediately reimburse the cash charged to the person in the amount of
22 the cash deficit. The reimbursement shall not exceed the amount in the cash
23 difference fund unless that fund is replenished by the board of supervisors, and in
24 any event is not to exceed the sum appropriated by the board.

25 **Comment.** Section 29374 is amended to reflect:

26 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
27 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
28 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
29 reference to "judicial district" generally meant "municipal court district").

30 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
31 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
32 court employees).

33 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
34 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
35 ("court operations" defined), 77200 (state funding of trial court operations).

36 The section is also amended to make it gender-neutral.

37 **Gov't Code § 29375 (amended). Deposit of overage**

38 SEC. _____. Section 29375 of the Government Code is amended to read:

39 29375. If an overage is reported to the county officer or administrative head of a
40 county department ~~or judicial district~~ involved, ~~he~~ the county officer or
41 administrative head shall immediately deposit the overage in the overage fund in
42 the county treasury.

43 **Comment.** Section 29375 is amended to reflect:

44 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
45 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.

1 Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
2 reference to “judicial district” generally meant “municipal court district”).

3 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
4 Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial
5 court employees).

6 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
7 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
8 (“court operations” defined), 77200 (state funding of trial court operations).

9 The section is also amended to make it gender-neutral.

10 **Gov’t Code § 29376 (amended). Account of cash difference fund**

11 SEC. _____. Section 29376 of the Government Code is amended to read:

12 29376. Each county officer or administrative head of a county department ~~or~~
13 ~~judicial district~~ having a cash difference fund shall upon demand of the auditor or
14 the board of supervisors give an account of the cash difference fund.

15 **Comment.** Section 29376 is amended to reflect:

16 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
17 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
18 Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
19 reference to “judicial district” generally meant “municipal court district”).

20 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
21 Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial
22 court employees).

23 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
24 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
25 (“court operations” defined), 77200 (state funding of trial court operations).

26 **Gov’t Code § 29377 (amended). Application to replenish cash difference fund**

27 SEC. _____. Section 29377 of the Government Code is amended to read:

28 29377. If the cash difference fund becomes exhausted, the county officer or
29 administrative head of a county department ~~or judicial district~~ involved may make
30 a written application to the board of supervisors to have it replenished. In ~~his~~ the
31 application, he the county officer or administrative head shall itemize each cash
32 deficit as to amount, date of occurrence and the name of the person whose account
33 was reimbursed from the fund.

34 **Comment.** Section 29377 is amended to reflect:

35 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
36 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
37 Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
38 reference to “judicial district” generally meant “municipal court district”).

39 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
40 Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial
41 court employees).

42 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
43 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
44 (“court operations” defined), 77200 (state funding of trial court operations).

45 The section is also amended to make stylistic revisions.

1 **Gov't Code § 29379 (amended). Discontinuance of cash difference fund**

2 SEC. _____. Section 29379 of the Government Code is amended to read:

3 29379. The board may at any time discontinue the cash difference fund. If the
4 cash difference fund is discontinued, the county officer or administrative head of a
5 county department ~~or judicial district~~ shall immediately give an account thereof
6 and deposit any balance in that fund ~~in~~ into the county general fund.

7 **Comment.** Section 29379 is amended to reflect:

8 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
9 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
10 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
11 reference to "judicial district" generally meant "municipal court district").

12 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
13 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
14 court employees).

15 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
16 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
17 ("court operations" defined), 77200 (state funding of trial court operations).

18 The section is also amended to make a stylistic revision.

19 **Gov't Code § 31116 (amended). Travel expenses of county applicants**

20 SEC. _____. Section 31116 of the Government Code is amended to read:

21 31116. For the purpose of facilitating the recruitment of professional and
22 technically trained persons to fill positions for which there is a shortage of
23 qualified applicants, a county may expend county funds to pay reasonable travel
24 expenses of applicants for county ~~or judicial district~~ employment in traveling,
25 from any point within the continental United States, to and from the place or
26 places at which the applicants are to be examined or interviewed. Such payments
27 shall be authorized only upon a determination by the board of supervisors that the
28 expenditure is necessary to recruit qualified persons needed by the county ~~or~~
29 ~~judicial district~~.

30 **Comment.** Section 31116 is amended to reflect:

31 (1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article
32 VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L.
33 Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory
34 reference to "judicial district" generally meant "municipal court district").

35 (2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g.,
36 Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial
37 court employees).

38 (3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see
39 generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003
40 ("court operations" defined), 77200 (state funding of trial court operations).

41 **Note.** The Commission specially solicits comment on its preliminary interpretation of the
42 effect of the Trial Court Employment Protection and Governance Act (hereafter, "the Act") on
43 Section 31116. The provisions in the Act relating to hiring do not appear to authorize courts to
44 pay applicants' travel expenses. See, e.g., Sections 71620, 71622, 71640-71645. The Commission
45 currently interprets the lack of such authority in the Act — a comprehensive scheme governing
46 trial court employment — to indicate an intent that courts not pay for such expenses. *Cf.* Gov't
47 Code § 71645(a) (providing that Sections 71640-71645 of the Act "replac[e] any aspects of

- 1 county employment, selection, and advancement systems applying to trial court employees” that
 - 2 previously applied to such employees). The Commission would appreciate input from
 - 3 knowledgeable sources about whether that interpretation is correct.
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